

# United States District Court

## WESTERN DISTRICT OF MICHIGAN

UNITED STATES OF AMERICA

V.

MIGUEL SOTO

## ORDER OF DETENTION PENDING TRIAL

Case Number: 1:12-CR-132

In accordance with the Bail Reform Act, 18 U.S.C. §3142(f), a detention hearing has been held. I conclude that the following facts require the detention of the defendant pending trial in this case.

### Part I - Findings of Fact

- ☐ (1) The defendant is charged with an offense described in 18 U.S.C. §3142(f)(1) and has been convicted of a (federal offense) (state or local offense that would have been a federal offense if a circumstance giving rise to federal jurisdiction had existed) that is
- ☐ a crime of violence as defined in 18 U.S.C. §3156(a)(4).
- ☐ an offense for which the maximum sentence is life imprisonment or death.
- ☐ an offense for which the maximum term of imprisonment of ten years or more is prescribed in \_\_\_\_\_
- ☐ a felony that was committed after the defendant had been convicted of two or more prior federal offenses described in 18 U.S.C. §3142(f)(1)(A)-(C), or comparable state or local offenses.
- ☐ (2) The offense described in finding (1) was committed while the defendant was on release pending trial for a federal, state or local offense.
- ☐ (3) A period of not more than five years has elapsed since the (date of conviction) (release of the defendant from imprisonment) for the offense described in finding (1).
- ☐ (4) Findings Nos. (1), (2) and (3) establish a rebuttable presumption that no condition or combination of conditions will reasonably assure the safety of (an) other person(s) and the community. I further find that the defendant has not rebutted this presumption.

### Alternate Findings (A)

- ☒ (1) There is probable cause to believe that the defendant has committed an offense
- ☐ for which a maximum term of imprisonment of ten years or more is prescribed in \_\_\_\_\_
- ☒ under 18 U.S.C. §924(c).
- ☒ (2) The defendant has not rebutted the presumption established by finding 1 that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community.

### Alternate Findings (B)

- ☒ (1) There is a serious risk that the defendant will not appear.
- ☒ (2) There is a serious risk that the defendant will endanger the safety of another person or the community.

Defendant is charged with in aid of racketeering and related charges. Substantial evidence introduced at the hearing shows that the Holland Latin Kinds (HLK) work collectively to sell controlled substances (e.g., marijuana and cocaine) and are quite willing to use threats and acts of violence to protect their "turf." In order to become a member of HLK (i.e., a brother), potential members must serve a probationary period during which they are expected to carry out crimes of violence such as drive-by shootings, drug dealings, arson, etc. Defendant Soto admitted to his affiliation with HLK for the past two years. He is a lawful resident alien (continued on attachment)

### Part II - Written Statement of Reasons for Detention

I find that the credible testimony and information submitted at the hearing establishes by a preponderance of the evidence that

no condition or combination of conditions will assure the appearance of the defendant, and by clear and convincing evidence that no condition or combination of conditions will assure the safety of the community based upon the un rebutted presumption. While defendant has family in Western Michigan, he is also a Mexican citizen free to return to that country from which he could not be easily extradited. Thus the presumption is not rebutted. (continued on attachment)

### Part III - Directions Regarding Detention

The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States marshal for the purpose of an appearance in connection with a court proceeding.

Dated: February 21, 2013/s/ Hugh W. Brenneman, Jr.*Signature of Judicial Officer*Hugh W. Brenneman, United States Magistrate Judge*Name and Title of Judicial Officer*

**ORDER OF DETENTION PENDING TRIAL**

Page 2.

**Alternate Findings (B) - (continued)**

but as a Mexican citizen, he is free to return to Mexico at any time from which extradition would be difficult. Defendant has family in the Holland area. Defendant states that he used to be a heavy drinker but less so now. Defendant has been convicted of nine offenses, but all but one of them involved alcohol or driving while license suspended, or a combination of driving and alcohol. On two occasions while awaiting sentencing, defendant committed the same offense yet again. On June 22, 2012, defendant was found in the middle of the night with the Latin Kings Enforcer, in violation of his probation prohibiting him from associating with gang members. On July 14, 2012, defendant was part of a crew of five Latin Kings who armed themselves with a high-powered handgun and went looking for Vatos Locos to shoot. When they were unsuccessful, Soto hid the weapon in his own basement. He was on probation at the time.

**Part II - Written Statement of Reasons for Detention - (continued)**

In the alternative, however, even if the presumption were entirely rebutted, the government has met its burden that there is no condition or combination of conditions that will assure the safety of the community from this particular gang member. His repeated driving and alcohol violations, some of which occurred while he was awaiting sentencing on other such violations, and the number of them, show defendant's total disregard for the law (e.g., four separate convictions for driving while license suspended alone). More significantly, when he has been apprehended and convicted and placed on probation, he has violated the terms of his probation by associating with the Enforcer of the Latin Kings and on one occasion, joining the Enforcer and three other people in hopes of finding some Vatos Locos to shoot. The government has shown by clear and convincing evidence that the defendant has such little regard for the laws of the safety of the community that there are no conditions which will assure the safety of the community if he is released.